

Memo 1996-11 9-25-96 All-Bank Mailing

To: All State Chartered Banks

**From: W. Newton Male
State Bank Commissioner**

Date: September 25, 1996

**Re: (1) Disclosure of CAMEL Ratings
(2) Home Equity Loans
(3) Notice of Security Interests in Automobiles**

(1) Disclosure of CAMEL Ratings The Office of the State Bank Commissioner continually strives to make the examination process both informative and useful. A primary goal of this process and the resulting report of examination is to assist bank management in defining strengths and weaknesses, and developing recommendations to bring about improvements that will enhance the institution's safety and soundness.

In furtherance of this goal, our agency will disclose both composite and individual component ratings for examinations commencing after November 1, 1996. These ratings will be identified in the written report of examination and, to the extent feasible, our examiners will discuss tentative rating assignments during the scheduled exit meeting at the conclusion of each examination. As is presently the case, all field rating assignments are reviewed and subject to change by this office prior to issuance of the final report.

(2) Home Equity Loans Our office has received several inquiries regarding home equity loan documentation and a perceived inequity in documentation requirements between the state and OCC. We have researched this issue with both the OCC and national banks, and have determined that state documentation guidelines are generally no more restrictive, and in certain areas less restrictive than those of the OCC. At least in part, this confusion appears to have stemmed from the offering of "no cost" home equity loans by some national banks. Some individuals have assumed these banks have not obtained necessary filings or gathered appropriate loan documentation, when reportedly, these items are obtained and the related expense absorbed by the bank as a marketing device.

State documentation requirements contained in K.A.R. 17-11-18(a)(b)(c) and K.A.R. 17-11-21 do not apply to loans below \$25,000. In general terms however, prudent banking practices would suggest a home equity loan credit file contain a mortgage, financial information, evidence of lien priority, and an appraisal or evaluation of the real estate. Depending upon the individual borrower's circumstances and the bank's policy, a simple lien search and information from county tax appraisals may be sufficient to determine lien position and property value in these instances.

In the case of larger home equity loans, K.A.R. 17-11-18 does require a title opinion or title insurance on real estate loans in excess of \$25,000. With this exception, the remaining documentation guidelines for home equity loans are, we believe, essentially the same among all regulators. If, however, there are specific documentation items which you feel are unduly burdensome or restrictive in relation to home equity lending, please let us know.

(3) Notice of Security Interests in Automobiles K.S.A. 8-135 makes it clear that in a purchase money transaction for a motor vehicle, the secured party's act of completion and timely (within 10 days of the sale) mailing or delivery of a

Notice of Security Interest ("NOSI") to the Kansas Department of Revenue ("Revenue") perfects the secured party's interest in the vehicle. By mailing or delivering the NOSI, and maintaining a photocopy of the completed NOSI, along with documentation establishing that the NOSI was mailed or delivered to Revenue within 10 days of the sale, the bank has complied with the provisions of K.A.R. 17-11-18 (e). In addition, for a period of 90 days, such documentation will also be sufficient to allow examiners to consider the collateral when judging the credit. *After* 90 days, the bank must have either a copy of a letter from Revenue indicating that the NOSI has "matched" (as described below) with a title application, or the bank must document its efforts to determine why there has been no match. Otherwise, the examiner will not consider the vehicle as collateralizing the borrower's obligation.

Once the bank sends a NOSI to Revenue, the following chain of events will occur. Revenue will file the NOSI when it is received. Then, when the owner of the car applies for a title, Revenue matches the NOSI with the title application, notes the lien on the title, and provides a letter to the bank indicating that this has happened. If within approximately 90 days of the filing of a NOSI, Revenue does not receive a title application to match to the NOSI, a letter is routinely sent to the bank, indicating that no match has been made. Once the bank receives a letter indicating that no match has been made, or if 90 days have passed and there has been no notification from Revenue, it would be prudent for the bank to make an effort to contact Revenue and/or the borrower to determine why there has been no match. Often, a match has not been made because of a typographical error, either on the title application or on the NOSI. However, it is also possible that the borrower never filed the title application or used the loan proceeds for another purpose and never purchased the car. Because of this possibility, it is important that the bank determine why no match has been made. The bank should document those efforts in the credit file. If 90 days have passed after filing the NOSI, and the credit file does not reflect either that the bank has received notification of the match, or that steps have been taken to ensure that a match occurs, the examiner will not consider the vehicle as collateral when judging the credit.

As always, we value your open communication. Please contact our office if you have questions or concerns related to these or any other issues.